



# **CITY COUNCIL AGENDA REPORT**

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MEETING DATE: January 20, 2009

ITEM NUMBER: VI-18

**SUBJECT: EXTENSION OF AGREEMENT FOR WORKERS' COMPENSATION CLAIMS  
ADMINISTRATION SERVICES – CORVEL CORPORATION**

**DATE: January 14, 2009**

**FROM: Stephen N. Mandoki, Administrative Services Director and Debra Yasui, Human  
Resources Administrator**

**PRESENTATION BY: Stephen N. Mandoki, Administrative Services Director**

**FOR FURTHER INFORMATION CONTACT: Debra Yasui, Human Resources Administrator**

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## **RECOMMENDED ACTION:**

1. Approve a month-to-month Agreement to provide third party administration claims services for the self-insured workers' compensation program with CorVel Corporation (Attachment I), in Rancho Cucamonga, California, for the period of January 1, 2009, and ending no later than March 31, 2009; and
2. Approve an extension of the Agreement to provide third party administration claims services for the self-insured workers' compensation program with CorVel Corporation (Attachment II), in Rancho Cucamonga, California, for the period ending December 31, 2009, and authorize the City Manager to execute all necessary documents, with annual fees not to exceed \$261,940.54.

## **BACKGROUND:**

The City of Costa Mesa is a self-insured public entity that contracts with a Third Party Administrator (TPA) to provide necessary claims adjusting services. The City has contracted with Hazelrigg Risk Management Services Incorporated (HRMS) since July 1, 1995 for such services under a joint agreement with the City of Newport Beach. The partnership with Newport Beach and the contractual relationship with HRMS was the result of a comprehensive request for proposal (RFP) process conducted by the two cities. In February 2007, HRMS was acquired by CorVel Corporation. There was no change in the services provided.

CorVel/HRMS has provided claims services to the cities under a format of a dedicated claims unit that exclusively handles the workers' compensation claims of both cities. The last formal RFP process for these services was conducted at the end of 2005 with an agreement presented to the City Council for approval in April 2006. This agreement was for the period of April 1, 2006 through August 31, 2008, and it was subsequently extended through December 31, 2008.

## **ANALYSIS:**

There have been numerous discussions about the current level of services provided to Costa Mesa and Newport Beach under this agreement and the overall quality of work. Both cities agree that extending the contract for another year would allow the opportunity to further evaluate future needs, possible modifications to the contract, and to determine the benefits of a continuation of a joint agreement. It is anticipated that an RFP process will take place in 2009 for a contract effective in January 2010.

Additionally, consideration was given to the potential disruption that would occur with a change in administrators and the additional costs associated with the data transfer and conversion. Continuity of service with the current caseload is a significant factor.

Fees for CorVel's/HRMS' services increased 4% in 2007 and 4.5% in 2008. To extend the contract for 2009, CorVel may increase Costa Mesa's fees by up to 3%. This would represent an increase from \$254,311.20 in 2008 to \$261,940.54 in 2009. This is less than the normal increase of 4% to 5% for their other clients.

## **ALTERNATIVES CONSIDERED:**

Because of the timing and the joint relationship with Newport Beach no other alternatives were considered at this time.

## **FISCAL REVIEW:**

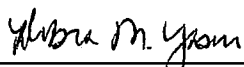
Risk Management budgeted \$260,591 in the Self-Insurance fund for workers' compensation claims third party administration expenses for Fiscal Year 2008-2009. There were no fee increases in the first half of the fiscal year; there is sufficient funding for this agreement through the remainder of the fiscal year which ends June 30, 2009. Appropriate funds will be budgeted for July 1, 2009 through December 31, 2009 in the Fiscal Year 2009-2010 budget.

## **LEGAL REVIEW:**

The City Attorney has reviewed and approved the extension agreement as to form.

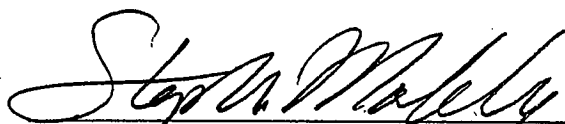
## **CONCLUSION:**

Staff recommends the month-to-month Agreement for a period ending no later than March 31, 2009 and an extension of the Agreement with CorVel Corporation for third party administration services for the workers' compensation program for the City beginning on or before April 1, 2009 and ending on December 31, 2009, with annual fees not to exceed \$261,940.54, to be signed by the City Manager.



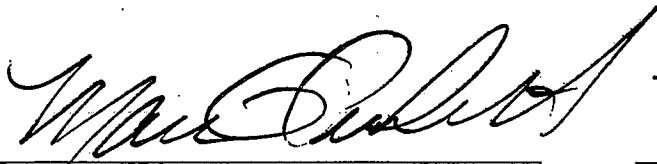
DEBRA M. YASUI

Human Resources Administrator/Risk



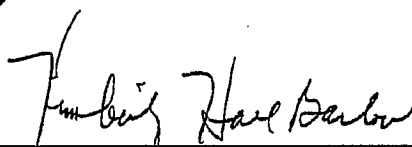
STEPHEN N. MANDOKI

Director of Administrative Services



MARC R. PUCKETT

Director of Finance



Kimberly Hall Barlow

City Attorney

DISTRIBUTION: City Manager  
City Attorney  
Deputy City Clerk  
Director of Finance

ATTACHMENTS: I - Amendment Number One To Agreement For Workers'  
Compensation Claims Administration  
II - Professional Services Agreement For Workers' Compensation  
Claims Administration

**AMENDMENT NUMBER ONE  
TO AGREEMENT FOR WORKER'S COMPENSATION  
CLAIM ADMINISTRATION**

This Amendment is made and entered into this 20th day of January, 2009, ("Effective Date") by and between the City of Costa Mesa, a municipal corporation ("City") and CorVel Corporation ("Contractor").

WHEREAS, Contractor and City entered into an agreement on April 18, 2006, for dedicated worker's compensation claims administration for the City; and

WHEREAS, the term of Contractor and City's original Agreement expired on August 31, 2008 and was subsequently extended for four (4) months, ending on December 31, 2008; and

WHEREAS, Contractor and City now wish to amend the Agreement to extend the term of the Agreement and revise compensation to allow Contractor to continue providing services to City until a Request for Proposal is prepared and the bidding process has been completed and a new Agreement with the selected company has been executed.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Paragraph 4.1 shall be amended to read, "This Agreement is extended and the extension shall commence on January 1, 2009 and continue on a month-to-month basis until March 31, 2009, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties."
2. Paragraph 2.1 shall be amended to read, "Consultant shall be paid a flat rate for its services on a monthly basis not to exceed Twenty-One Thousand Eight Hundred Twenty-Eight Dollars and Thirty-Eight Cents (\$21,828.38) per month, which includes a maximum three percent (3%) increase from the previous annual amount."
2. All terms not herein defined shall have the same meaning and use as set forth in the Agreement.
3. All other terms, conditions, and provisions of the original Agreement not in conflict with this Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have set their hand by their duly authorized representatives as of the day and year first above written.

*SIGNATURES ON NEXT PAGE*

Corvel Corporation

CITY OF COSTA MESA,  
A municipal corporation

\_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

CORVEL CORPORATION

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Social Security or Taxpayer ID Number

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Project Manager

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

**PROFESSIONAL SERVICES AGREEMENT  
FOR WORKER'S COMPENSATION CLAIM ADMINISTRATION**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and CORVEL CORPORATION, a California corporation ("Consultant").

**WITNESSETH:**

- A. WHEREAS, City proposes to have Consultant perform dedicated worker's compensation claims administration as described herein below; and
- B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Consultant desire to contract for specific services in connection with the project described below (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONSULTANT**

1.1. Scope of Services. Consultant shall provide the professional services described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference and.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.4. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.5. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.6. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. Consultant shall be paid a flat rate of not to exceed One Hundred Ninety-Six Thousand Four Hundred Fifty-Five Dollars and Forty Cents (\$196,455.40) for the nine (9) month period of this Agreement, which includes a maximum three percent (3%) increase from the previous annual amount.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Scope of Services unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City's Project Manager for approval on a progress basis, but no more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

## **3.0. TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

#### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of nine (9) months, ending on December 31, 2009, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.



## 5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The comprehensive general liability insurance policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."
- (b) Notice: "Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

5.3. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.4. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

## 6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

### IF TO CONSULTANT:

Corvel Corporation  
10750 4<sup>th</sup> Street, Suite 100  
Rancho Cucamonga, CA 91730  
Tel: 909-257-3700  
Fax: 866-784-8329  
Attn: Scotty L. Benton

### IF TO CITY:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Tel: 714-754-5069  
Fax: 714-754-4991  
Attn: Debra Yasui

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "B" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless: Consultant shall protect, defend, indemnify and hold harmless City and its elected and appointed officials, officers, and employees from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil claims or workers' compensation claims arising out of or in any way connected with the intentional or negligent acts, error or omissions of Consultant, its employees, agents or subcontractors in the performance of this Agreement.

6.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.11. Ownership of Documents: All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs,

files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.12. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.13. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.14. Prohibited Employment: Consultant will not employ any regular employee of City while this Agreement is in effect.

6.15. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. . If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

6.16. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.17. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.18. Headings: Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.20. Amendments: Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,  
A municipal corporation

\_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

CORVEL CORPORATION

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Social Security or Taxpayer ID Number

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Project Manager

Date: \_\_\_\_\_

**EXHIBIT A**

**SCOPE OF SERVICES**

## **SCOPE OF WORK**

### **(1) Dedicated Claims Unit**

The objective of this scope of work is the establishment of a dedicated claims unit to service and manage **only** the Cities account. The unit will consist of a minimum of three (3) technical personnel selected with the concurrence of the Cities and one (1) clerical support/claims assistant to sufficiently assist the claims unit.

### **(2) Assigned Personnel**

Administrator shall designate a full time Claims Supervisor to be assigned to this account and will act as the primary contact for the Cities and selected with the concurrence of the Cities. The Claims Supervisor must possess the Self-Insurance Plan Certificate.

The Administrator shall assign two (2) full time Claims Examiners to the claims unit selected with the concurrence of the Cities. The Claims Examiners must possess the Self-Insurance Plan Certificate.

The Administrator shall assign (1) full time clerical support/Claims Assistant to the account.

If for any reason the Cities find, in their sole discretion, that the service provided by any assigned personnel is unsatisfactory, the Administrator will agree to assign replacement personnel that must also be approved by Cities. Supervisors and adjusters assigned to the account must have a minimum of five (5) years full time experience as a workers compensation adjuster.

### **(3) Caseloads**

Caseload for the purpose of this RFP and the contract are defined as all open claims, indemnity and medical only, to calculate "Total Caseload." Claims that are designated as companion files will be counted with the master claim file as one claim file.

The maximum caseload for the assigned personnel shall be as follows:

Claims Assistant:	Medical only claims
Claims Examiner:	150 open claims
Claims Supervisor:	20 open claims

If at any time during the term of the agreement the number of all open claims exceeds 150 per Examiner and 20 for the Supervisor, the Administrator shall assign additional staff to the Cities account with Cities concurrence.



(4) **Increased Claims Inventory**

Pursuant to Paragraph 3 of the Scope of Work, the claims examiner's caseload shall not exceed 150 open claims. The City and the Consultant agree that such maximum shall be subject to a ten percent (10%) variance, as the variance only relates to the claims examiner's caseload. In the event the caseload of the examiner exceeds 10% of the maximum on average for a period of two calendar months, the City at its discretion may request, in writing, additional examiner support. The terms and conditions regarding the nature and extent of the additional examiner support will be determined by mutual consent of the parties.

(5) **Closed Claim Storage Fee**

During the term of this Agreement, all closed claims will be stored by Consultant for a period of one hundred eighty (180) days following the closure date at no charge to City. The Consultant will advise the City of the date their files are closed, so that the City and the Consultant can make the necessary arrangements to have those files copied to another medium or stored for retention by a vendor of the City's choice within the 180 day gratis period.

(6) **Program Administration**

Program administration services shall, at a minimum, include the following:

- (A) Provide professional and technical staff to perform the services as agreed upon under separate contract with the Cities and this scope of work.
- (B) Represent Cities in all matters related to the set-up, investigation, adjustment, processing, negotiation and resolution of workers' compensation claims against Cities.
- (C) Inform Cities of changes or proposed changes in statutes, rules and regulations and case law affecting the workers' compensation program.
- (D) Assist in the development of policies and procedures relating to the workers' compensation claims program.
- (E) Provide information and guidance regarding the workers' compensation program and specified claims.
- (F) Inform Cities of problem areas or trends, both potential and perceived, and provide recommendations and/or solutions to address problem areas or trends.

- (G) Provide copies of file correspondence and documentation as requested. This element is, of course, subject to the parameters of the laws of the State of California, i.e., medical related information.
- (H) Attend appointments, including but not limited to meetings, conferences, court appearances, and scene investigations at request of Cities.
- (I) Conduct risk management related seminars for department heads and/or Cities staff at request of Cities.
- (J) Maintain and store all closed hardcopy files.
- (K) Provide the Cities with an adequate supply of preprinted forms and notices specific to each City during the term of the contract.
- (L) Destroy any claim records by shredding. There will be no additional cost to Cities for destruction of claim records.
- (M) Administrator shall provide to Cities, at no additional cost, within five (5) business days of the date of termination of this Agreement, all claims, reports, files and a computer tape of Cities' self-insured workers' compensation program in a computer program compatible with new Administrator's computer system and information on the tape lay-out/format.

(7) **Claims Administration**

Claims Administration services shall, at a minimum, include the following:

- (A) Create and enter new claim files into the computer within 24 hours of receipt of notice from Cities. Maintain a hardcopy file for each claim.
- (B) The claims examiner will make 3-point contact by telephone on all pending claims within one business day after receiving notice of the claim. Contact will be completed within 48 hours of receipt of the claim form by CorVel.
- (C) The supervisor will review all new claims within 5 days after set up. Delayed claims will be reviewed at 45 and 80 days within the first 90 days. The supervisor will review all denials. Supervisor must review a sampling of Claims Examiner and Claims Assistant files.
- (D) Review the Employer's and Doctor's First Report of Industrial Injury/Illness, make a determination as to accept, deny or delay the claim and inform the employee in a timely manner. Determine and authorize payment of all temporary disability and salary continuation (4850) in a timely manner as outlined in the state workers' compensation laws and in accordance with

medical recommendations. Notify employee when benefits are being initiated, interrupted, or terminated, as well as the reason therefore.

- (E) Process all claims in accordance with Cities' instructions and policies and in full compliance with the workers' compensation laws of the State of California and other state regulations governing the administration of self-insured workers' compensation programs.
- (F) Monitor and pay medical/legal expenses. In addition, Administrator will require medical treatment to be pre-authorized whenever possible and that all charges are paid according to the provisions of workers' compensation laws.
- (G) Establish, maintain and manage an interest bearing trust account for each City. The Cities will be co-signer on their respective accounts. Administrator shall provide copies of check registers and copies of checks (at Cities option) from the account.
- (H) Initiating and coordinating supplemental job displacement benefits for qualified injured workers.
- (I) Arrange for independent investigators or experts when, in Administrator's judgment and with the consent of Cities, such action is deemed necessary to (1) properly process questionable cases; (2) assist in determining the status of disabled employees; (3) prepare litigated cases; or (4) assist in determining fraudulent claims. All assignments are to be in writing and documented in the IVOS notepad.
- (J) Making recommendations to Cities' staff regarding settlement/disposition of claims, based on thorough analysis of relevant factors. Final settlement authority shall rest with the Cities.
- (K) Determining the extent and degree of permanent disability based upon medical evidence. All findings will be reported to the city involved prior to any action being taken. All permanent disability advances will be paid in accordance with the Labor Code.
- (L) The Administrator will be required to complete the annual Public Entities Self-Insurers report for the Cities as required by the Department of Industrial Relations, Self-Insurance Plans; to be submitted to the Cities, no later than 30 days prior to the due date.
- (M) Provide the Cities with the following information:

- 1) Copies of all medical reports on injured/ill employees. This element is, of course, subject to the parameters of the laws of the State of California, i.e., medical related information.
  - 2) Copies of all correspondence to and from service providers with respect to individual claims. This element is, of course, subject to the parameters of the laws of the State of California, i.e., medical related information.
  - 3) Copies of all documents/correspondence pertaining to litigated claims. This element is, of course, subject to the parameters of the laws of the State of California, i.e., medical related information.
  - 4) Narrative reports of claims involving major injuries, or significant financial exposure, on request. This element is, of course, subject to the parameters of the laws of the State of California, i.e., medical related information.
  - 5) Periodic (semi-annual or annual) risk management analysis reports, including recent statutory and case law regulation and recommendations for preventive measures based on analysis of Cities claims and losses.
- (N) Conduct a case file review meeting at least semi-annually with each respective City.
- (O) A quarterly meeting shall be held between the Administrator, and each respective Risk Manager. The purpose of this review shall be to outline losses and identify problems, examine reserves, identify current trends, discuss changes in the Labor Code, apply new case law to existing claims, discuss the needs for improving or altering claims management, and to make recommendations for improvement in communications between the Administrator and the Cities.
- (P) At the direction of Cities, contact claimant or their attorney and maintain appropriate contact until the claim is closed.
- (Q) Review status of claims and maintain adequacy of reserves on all active cases at least every 30 days.
- (R) Provide narrative reports to Cities when recommending disposition of a claim, when a claim goes to trial, or any other significant events that have or will occur. Reports must be clear and concise and be provided in a format as approved by Cities.

- (S) Diary all indemnity files at a minimum every 30 days to allow for timely completion of required activity. Claims with temporary disability or 4850 will be reviewed every 14 days. Future medical files will be reviewed no less than 180 days as warranted by the activity on the claim.
- (T) Files will clearly and concisely document action taken on the claim. All E-mail communications pertinent to a claim will be placed in the IVOS notepad. All entries will identify the issues of the claim and describe the plan of action being taken to resolve the issues. An action plan will be documented every 90 days on indemnity files and 180 on future medical files.
- (U) Telephone calls from Cities' staff, claimants or claimant's attorneys shall be returned within 24 hours. If the Administrator's appropriate staff member called is not available to return the call within this time frame, another designated staff member shall return the call.
- (V) Have translators available to assist with non-English speaking claimants.
- (W) Also, the Administrator may be asked to attend additional meetings upon request.
- (X) Request an Index check on all new claims and at six (6) month intervals on continuing active claims. Administrator shall report all of Cities' claims to the Index System.
- (XI) Report timely and collect reimbursement from all excess insurers on the Cities behalf where a loss exceeds the Cities self-insurance retention limit.

**(8) Medical Service and Expenditures**

With respect to medical services provided to employees who incur job-related injuries or illnesses, the Administrator shall:

- (A) Develop and recommend, as requested by Cities, a panel of physicians for the first treatment of employee injury or illness and recommend a panel of medical specialists for treatment requiring long-term or specialty care.
- (B) Monitor treatment programs for injured or ill employees including review of all doctors' reports, referring as necessary to a State-approved and Cities-approved utilization review management program for required determinations. Assist the cities with developing the criteria to be used with the utilization review vendor. All requests for PT, chiropractic, acupuncture, massage therapy will be sent to UR timely for review and documented in IVOS.

- (C) Recommend referral and with the consent of Cities, submit a claim for nurse case management services for assistance in medical control of the claim or for consultation to a Cities-approved nurse case management company.
- (D) Maintain close liaison with treating physicians.
- (E) Provide guidance in the evaluation of physical capacity of injured employees and their ability to return to work.
- (F) Determine eligibility for and authorize payment of medical benefits, and arrange and authorize examinations to determine the nature and extent of disability.
- (G) Arrange and advise all interested parties to a claim of all medical appointments, including Agreed or Independent Medical Evaluations, using the panel list agreed upon between Administrator and Cities or as required by the State agency. All AME's require city approval.
- (H) File and serve all medical reports on interested parties of a claim and with the appropriate State agency within five (5) days of receipt.
- (I) Review all billings for reasonableness using the State Medical Fee Schedules and submit for medical auditing as necessary to a Cities-approved bill review service. All bills will be paid or objected to within 30 days.
- (J) Assist Cities, as requested, with establishing a Medical Provider (MPN) to treat injured workers.

**(9) Consultation**

With respect to consultation provided to Cities and/or employees who incur job-related injured or illnesses, the Administrator shall:

- (A) Provide information and guidance to injured employees regarding the benefits they will receive in accordance with Cities' policies.
- (B) Provide information, guidance and assistance to injured employees regarding permanent disability ratings, Qualified Medical Examiner process and settlement of claims.
- (C) Assist Cities in solving employee non-legal problems arising out of industrial injury cases.

- (D) Work with the injured employees, Cities' personnel and other agencies to provide rehabilitation, retraining or reassignment of employees with physical or performance limitations arising out of industrial injuries.
- (E) Assist in developing policies and procedures to insure that the return to work by, or reassignment of, injured employees is consistent with the medical findings.
- (F) Assist Cities, as requested, with cost containment and incentive programs.

(10) **Litigation Management**

Litigation management services by the Administrator shall, at a minimum, include the following:

- (A) Refer litigated cases to attorneys using a listing of legal firms provided by Cities.
- (B) Assist in the preparations of litigated cases.
- (C) Assist in negotiation of Compromise and Release settlements.
- (D) Monitor all cases for potential subrogation recoveries, prepare correspondence to effect collection, and assist legal counsel where litigation is required to effect recovery.
- (E) Ensure that, for employees who are represented by legal counsel, their attorneys receive copies of reports and correspondence as appropriate/required.
- (F) Maintain a litigation management budget for each litigated file and provide litigation status reports on a monthly basis for each litigation file.
- (G) Cooperate fully with all attorneys chosen by Cities, including City Attorneys.

(11) **Information Management and Reports**

Administrator shall, at a minimum, include the following:

- (A) Utilize computer programs to provide Cities' management with continuing information on paid losses, incurred costs, the progress of individual claims and the effectiveness of safety and other cost control programs.
- (B) Submit a comprehensive annual statistical summary survey and, if requested by Cities, narrative report to serve as the basis for evaluation of Cities' programs.

- (C) Prepare reports required by the California Department of Industrial Relations.
- (D) Prepare the Cities' annual CalOSHA Log 300.
- (E) Prepare any reports on Cities' claims and expenditures as may be required by the California Department of Industrial Relations.
- (F) Provide, upon Cities' request, narrative or analytical reports of major cases.
- (G) Provide the following monthly reports by the 5<sup>th</sup> business day of the following month:
  - 1) Management summaries by department, locations and for the total program.
  - 2) Check Register by payment type.
  - 3) Listing of checks received (reinsurance, subrogation and overpayments).
  - 4) Voucher Register by payment type.
  - 5) Alphabetical listing of open claims with date of injury, body part, paid to date, reserves and expected total incurred.
  - 6) Alphabetical listing of opened claims.
  - 7) Alphabetical listing of closed claims with date closed and amount paid on claim.
  - 8) Alphabetical listing of aggregate closed claims with date closed and amount paid on claim.
  - 9) Alphabetical listing of denied claims.
  - 10) Alphabetical listing of all claims with Total Incurred > \$1,000,000.
  - 11) Fiscal Year Summaries by department and for the total program.
- (H) Provide a written status of cases, as selected by Cities, and meet with Cities to discuss these cases at established intervals.
- (I) Provide Cities on the first workday of each month the following information for the previous month:



- 1) Number of closed files
  - 2) Number of new files
  - 3) Number of open files by category of Medical Only, Indemnity and Maintenance cases
  - 4) Number of claims assigned to each member of the dedicated unit
  - 5) Settlement Award Log
  - 6) Litigation Assignment Log
  - 7) Penalties Log
- (J) Provide Cities on January 1, April 1, July 1 and October 1 of each year the following information on open claims with total incurred > \$100,000:
- 1) Claimant's Name
  - 2) Date of injury
  - 3) Reinsurance Carrier(s)
  - 4) Self-Insured Retention Level
  - 5) Total Incurred
  - 6) Total Paid
  - 7) Total Reserves
- (K) Upon request by Cities, Administrator shall provide on-line usage of Administrator's computer system at designated individual agency sites.
- (L) Upon request by Cities, Administrator shall provide secure, electronic reports to allow performance of certain routine data analysis by Cities.

**(12) Financial Management**

Each City shall establish a Workers' Compensation Trust Fund, of which the Workers' Compensation Administrator shall be designated co-trustee. The purpose of this fund shall be to pay medical/legal and other expenses incurred as a result of accepted industrial injuries/illnesses, as well as payment of Workers' Compensation benefits to which eligible employees are entitled. With respect to

the Trust Fund, it shall be the responsibility of the Workers' Compensation Administrator to:

- (A) Report at least monthly, or as needed, to the Cities of charges against the fund, and obtain reimbursement to maintain the fund at an appropriate level determined by the Cities.
- (B) Manage the Trust Fund in a reasonable and prudent manner and in compliance with Cities' policies.
- (C) Issue vouchers to Cities from the Trust Fund in those instances where an employee is paid Labor Code 4850 pay, temporary total disability benefits or salary continuation in lieu of temporary disability benefits.
- (D) Actively collect any overpayment of benefits.
- (E) Reimburse Cities for any penalties assessed against Cities which are found to be the result of Administrator's lack of proper claims handling or the holding of checks due to insufficient funds in the bank account.
- (F) Establish procedures and necessary documentation enabling Cities to write checks for payment of benefits or to have Administrator draw checks for payment of benefits on an appropriate account of Cities.
- (G) Pay for the printing of any checks. Cities' name will appear on the check, and imprinted on all check copies. All checks shall be printed in numerical order, locked and controlled by Administrator's accounting department. All checks must be accounted for as payments, voids, etc.
- (H) Use a separate check register for Cities. Daily entries will be made on all checks disbursed on the account. Credits, if any, shall be entered, as well as all deposits made on checks, received on reimbursement requests made from Administrator's office. Administrator shall provide Cities with one (1) copy of each check issued, to be included with the check register and mailed to Cities.
- (I) Provide Cities' accounting office, if requested, with one (1) copy of each check register, all voided checks, etc.
- (J) Review periodically all Trustee accounts to determine if initial deposit is adequate for handling the dollar volume for the month so that the holding of checks waiting for a deposit does not occur. In such instances where it is determined that deposit is inadequate, Administrator's accounting office shall submit a report with a recommendation for an increase to the Trustee account based on this review. Prompt payments on Administrator's reimbursement requests are a major factor in the efficiency of a Trustee

account. Cities' reimbursement payments should reach Administrator's office within ten (10) days from the date of Administrator's request in order to maintain a continuous flow of checks issued throughout the month.

**EXHIBIT B**

**CITY COUNCIL POLICY 100-5**

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## BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

## PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

## **POLICY**

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

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- b. Establishing a Drug-Free Awareness Program to inform employees about:
  1. The dangers of drug abuse in the workplace;
  2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
  3. Any available drug counseling, rehabilitation and employee assistance programs; and
  4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
  1. Abide by the terms of the statement; and
  2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
  1. Taking appropriate personnel action against such an employee, up to and including termination; or
  2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

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- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
  - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
  - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
  - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

**EXHIBIT C**

**CERTIFICATES OF INSURANCE**